

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF RHODE ISLAND

IN RE:  
Fernando A. Tavares

Federal National Mortgage Association,

VS.

Fernando A. Tavares

CHAPTER 7  
CASE NO. 10-11655-ANV

MOTION FOR RELIEF FROM STAY AND MEMORANDUM IN SUPPORT THEREOF

To the Honorable Arthur N. Votolato:

Federal National Mortgage Association your moving party in the within Motion, respectfully represents:

1. The movant has a mailing address c/o its servicer CitiMortgage, Inc., 1000 Technology Drive, O'Fallon, MO 63368-2240.
2. The debtor, Fernando A. Tavares, has a mailing address of 227 Lake Drive, West Greenwich, RI 02817.
3. On April 17, 2010, the debtor filed a petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Rhode Island.
4. Prior to the filing of this bankruptcy case, the movant purchased the property identified as 227 Lake Drive, West Greenwich, RI 02817 at a foreclosure auction conducted on August 31, 2009 for the purchase sale price of \$355,051.67. A copy of the Foreclosure Deed and Affidavit is annexed hereto and marked as Exhibit 'A'.
5. The debtor is the former owner of the property and the borrower under the Note and Mortgage that was foreclosed. He is currently the occupant of 227 Lake Drive, West

Greenwich, RI 02817.

**6. Local Rule 4001-1 is not applicable to this motion and no R.I. Bank. Form R is required as the movant purchased the property prior to the filing of the bankruptcy petition and thus the subject property is not part of the bankruptcy estate.**

7. The movant seeks relief from stay as the new owner of the Property to commence or continue its state court rights in gaining possession of said property which the debtor continues to occupy without any claim of right or ownership. In support thereof, the movant states that it is entitled to relief pursuant to 11 U.S.C 362 (d)(1) on the basis that the debtor continues to hold over and occupy the Property owned by the movant without cause, thus denying the movant its right to possession and enjoyment.

WHEREFORE, the movant prays that:

- (i) it, and its successors and/or assigns, be granted relief from the automatic stay for the purpose of exercising its rights to the property including but not limited to gaining rightful possession of the property.
- (ii) The Court waive the requisite 10 Day Stay under F.R.B.P. 4001(a)(3).
- (iii) The Court order such other and further relief as may be just and proper

Respectfully submitted,

Federal National Mortgage Association,  
By its Attorney

/s/ Elizabeth A. Lonardo

Elizabeth A. Lonardo, Esquire

RI # 7714

HARMON LAW OFFICES, P.C.

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781-292-3900

Dated: June 4, 2010

**Within fourteen (14) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 528-4477. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.**

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CERTIFICATE OF SERVICE

I, Elizabeth A. Lonardo, Esquire, state that on June 4, 2010, I electronically filed the foregoing Motion for Relief from Stay with the United States Bankruptcy Court for the District of Rhode Island using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

Gary L. Donahue, Esquire, Assistant U.S. Trustee  
Thomas P. Quinn, Esquire, Chapter 13 Trustee  
George E. Babcock, Esquire for Debtor

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Elizabeth A. Lonardo  
Elizabeth A. Lonardo, Esquire  
RI # 7714

Fernando A. Tavares  
227 Lake Drive  
W. Greenwich, RI 02817

EXL/SCG/200807-1091/ Tavares